



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,850	06/28/2001	Jonas Bergsten	4925-119	5633
7590	08/10/2005			
COHEN, PONTANI, LIEBERMAN & PAVANE 551 Fifth Avenue, Suite 1210 New York, NY 10176			EXAMINER KE, PENG	
			ART UNIT 2174	PAPER NUMBER

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/893,850

Applicant(s)

BERGSTEN ET AL.

Examiner

Peng Ke

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

20

### **DETAILED ACTION**

In view of the appeal brief filed on 5/19/05, PROSECUTION IS HEREBY REOPENED.

The reasons are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claims 1-20 are pending in this application. Claims 1 and 11 are independent claims.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-78 of copending Application No. 09,988,918. Although the conflicting claims are not identical, they are not patentably distinct from each other because the independent claims 1 and 11 are similar to the independent claims 1 and 40 of Application No. 09,988,918; claim 1 of this application, '850, and the claim 1 of application, '918, both claim the following features:

“organizing a plurality of information entries into a hierarchy comprising a plurality of groups, at least one of which groups having at least one sublevel of subgroups; and displaying panels on a display associated with an electronic device, the panels being arranged into two bars of panels with a common focus panel, each of the panels being linked to and identifying one of (a) one of the plurality of information entries, (b) one of the groups, and (c) one of the subgroups, wherein the focus panel identifies (a) a currently selectable lowest level in the hierarchy and (b) the next higher level, if any, wherein levels, if any, in the hierarchy higher than that displayed in the focus panel are identified in succeeding adjoining panels of a first of the two bars, other panels of the first bar identifying highest level groups in the hierarchy, and wherein panels of the second of the two bars each identify one of (a) information entries, if any, (b)

groups, if any, and (c) subgroups, if any, of the same level in the hierarchy as the currently selectable lowest level in the hierarchy identified in the focus panel.”

Claim 11 of this application, ‘850, and claim 40 of application ‘918, both claim the following features:

“a database storing a plurality of information entries in a hierarchy comprising a plurality of groups, at least one of which groups having at least one sublevel of subgroups; and a means for displaying panels on a display associated with an electronic device, the panels being arranged into two bars of panels with a common focus panel, each of the panels being linked to and identifying one of (a) one of the plurality of information entries, (b) one of the groups, and (c) one of the subgroups, wherein the focus panel identifies (a) a currently selectable lowest level in the hierarchy and (b) the next higher level, if any, wherein levels, if any, in the hierarchy higher than that displayed in the focus panel are identified in succeeding adjoining panels of a first of the two bars, other panels of the first bar identifying highest level groups in the hierarchy, and wherein panels of the second of the two bars each identify one of (a) information entries, if any, (b) groups, if any, and (c) subgroups, if any, of the same level in the hierarchy as the currently selectable lowest level in the hierarchy identified in the focus panel.”

The main difference between the two applications is that application ‘330’s claimed features are embodied in a calendar information display device while this application, ‘850, is embodied in an electronic device. The Examiner believes that a calendar information display device is substantially the same as an electronic device.

All the dependent claims of the present application have matching similar dependent claims in the co-pending application.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other co-pending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP 804.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peng Ke whose telephone number is (571) 272-4062. The examiner can normally be reached on M-Th and Alternate Fridays 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peng Ke

  
KRISTINE KINCAID  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100